

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260
Attn: Housing Division

AFTER RECORDATION MAIL TO AND
MAIL TAX STATEMENTS TO:

100 Pacifica, Suite 203
Irvine, CA 92618

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

PARCEL 9 EASEMENT AGREEMENT

This Parcel 9 Easement Agreement (this "Agreement") is made as of _____, 2025, by and between PD MILLENIUM PARTNERS LP, a California limited partnership (the "Partnership"), and the CITY OF PALM DESERT, a municipal corporation (the "City"), (individually a "Party" and collectively referred to herein as the "Parties"), with reference to the following facts:

RECITALS

A. The Partnership owns an approximately 6.02-acre parcel of real property located at on the north side of Gerald Ford Drive between Portola Road and Cook Street in Palm Desert, California, as more particularly described in Exhibit A attached hereto ("Phase I Parcel"), on which the Partnership intends to construct and own one hundred twenty (120) units of affordable rental housing commonly known as Palm Villas I ("Phase I Project").

B. The City owns an approximately 4.47-acre parcel of real property located on the north side of Gerald Ford Drive between Portola Road and Cook Street in Palm Desert, California in the City of Palm Desert, California (the "Phase II Parcel"). The Phase II Parcel is adjacent to the Phase I Parcel and is intended to be Phase II of the Palm Villa development with one hundred nineteen (119) units of affordable rental housing.

C. The City also owns an approximately 26.14-acre parcel of real property located on the Dina Shore Drive in Palm Desert, California in the City of Palm Desert, California, as more particularly described in Exhibit B attached hereto (the "Parcel 9") that is adjacent to the Phase II Parcel.

D. Through a separate agreement the City has granted easements to the Partnership over the Phase II Parcel to allow the Partnership to construct private street improvements on the Phase II Parcel (the "Private Street Improvements") and to have ingress and egress across the Phase II Parcel.

E. The Partnership desires to construct street improvements across the Phase 9 to gain access Dinah Shore Drive (the "Street Improvements"), which Street Improvements will be connected to the Private Street Improvements.

F. In connection with the Phase I Project, the Partnership desires to secure a non-exclusive, appurtenant easement (subject to the terms and conditions of this Agreement), to allow for: (i) access, ingress and egress by and for the Permitted Parties (defined below) including both pedestrian and vehicular access the Parcel 9; (ii) construction of the Street Improvements; (iii) maintenance, repair, and replacement of the Street improvements in connection with such access.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

Section 1. Grant of Easements. The City hereby grants to the Partnership and its tenants, subtenants, licensees, invitees, customers, contractors, employees, and agents (the "Permitted Parties"), for the benefit of the Phase I Parcel the following easements: (i) a non-exclusive easement for pedestrian and vehicular access, ingress and egress by the Permitted Parties over and across the Parcel 9, as more particularly described in Exhibit C attached hereto (the "Access Easement"); (ii) an exclusive temporary easement over the Access Easement in order to construct, alter, remodel, demolish, repair, restore and reconstruct the Street Improvement (the "Construction Easement"); and (iii) a non-exclusive easement over, upon and across the Access Easement for the purpose of maintaining, operating and repairing the Private Street Improvements (the "Maintenance Easement") The Access Easement, the Construction Easement, and the Maintenance Easement shall be collectively referred to herein as the "Easements". The Partnership specifically acknowledges and agrees that the City is granting the Easements to the Partnership on an "as is with all faults" basis and subject to all title matters of record and all title matters visible upon inspection.

Section 2. Term. Subject to the provisions of Section 3, each covenant, easement, restriction, and undertaking of the Easement contained in this Agreement will be perpetual, unless sooner terminated as a result of the demolition of the housing developments on the Phase I Parcel and Phase II Parcel, which are not replaced by another residential development.

Section 3. Termination of the Easement. The Parties intend that upon completion of the Street Improvements the City will inspect the completed improvements and confirm that the improvements comply with the City standards for a public street. Following the City's confirmation of the Street Improvement compliance with City standards, the City shall promptly dedicate the Access Easement as a public street and, at which time, the Easements shall terminate. The Parties shall execute and record the appropriate documents to evidence the termination of the Easements.

Section 4. Nature of Easements. The Easements granted in this Agreement are appurtenant to and for the benefit of the Phase I Parcel. The Easements may not be transferred, assigned, or encumbered except as an appurtenance to the Phase I Parcel.

Section 5. Covenants Running with the Land. The City and the Partnership expressly intend that the covenants contained in this Agreement with respect to the Easements described in this Agreement will be equitable servitudes and covenants running with and benefiting and burdening the Phase I Parcel and Parcel 9.

Section 6. Construction of the Street Improvements. The Partnership shall construct the Private Street Improvement in accordance with City-approved plans and specifications for the construction of the Private Street Improvements. The Partnership shall diligently prosecute such construction to completion at the Partnership's sole cost and expense. The Partnership agrees that the Street Improvements shall be constructed in a good and workmanlike manner and in accordance with all applicable laws, rules, ordinances and regulations.

Section 7. Maintenance and Repair of Access Easement. The Partnership shall provide for the appropriate upkeep and maintenance of the portion of the Access Easement to ensure that the Access Easement is maintained in good condition and repair and clean and free of rubbish, debris and other hazards to users. The Partnership's shall maintain the surface of the Access Easement so that the surface is level and evenly covered with the type of surfacing material originally installed or a substitute material that is equal in quality, appearance, and durability.

Section 8. New Phase II Owner. If the City conveys the Phase II Parcel prior to the termination of this Agreement pursuant to Section 3, the new Phase II Owner its tenants, subtenants, licensees, invitees, customers, contractors, employees, and agents shall be consider Permitted Parties under this Agreement and the Parties and the new Phase II Owner will work cooperatively to record the appropriate documents to reflect that the Phase II Parcel is a benefitting parcel of the Easements set forth in Section 1 of this Agreement.

Section 9. Insurance and Indemnification Requirements. The Partnership shall maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Easements.

(a) **Required Coverage.** The Partnership must maintain and keep in force, at the Partnership's sole cost and expense, the following insurance:

(1) Workers' Compensation insurance, as required by the State of California and consistent with statutory limits, and Employers' Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury or disease.

(2) Commercial General Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence and Five Million Dollars (\$5,000,000) aggregate combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations. Products and Completed Operations coverage must be obtained no later than completion of construction of the Development. The Partnership shall cause the Partnership's general contractor to maintain Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence and Four Million Dollars (\$4,000,000) aggregate combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(b) General Requirements.

(1) The required insurance must be provided under an occurrence form, and the Developer must maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit must be three (3) times the occurrence limits specified above.

(2) Commercial General Liability insurance must be endorsed to name as additional insureds the City and its elected officials, officers, directors, representatives, consultants, employees, and agents. The endorsement must include liability arising out of work or operations performed by or on behalf of the Partnership including materials, parts, or equipment furnished in connection with such work or operations. For commercial general liability, the policy must be endorsed with a form at least as broad as ISO form 20 10, GC 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used.

(3) The Partnership's insurance must be primary to any other insurance (including self-insurance) available to the City (including elected officials, officers, directors, representatives, consultants, employees, and agents) with respect to any claim arising out of this Agreement. Any insurance maintained by the City shall be excess of the Partnership's insurance and shall not contribute with it.

(4) No policy shall be canceled, limited, or allowed to expire without renewal until after thirty (30) days written notice has been given to the City by first class mail.

(5) Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

Section 10. Indemnification. The Partnership hereby agrees to release, indemnify and defend the City, its councilmembers, its officers, its employees from and against any and all

claims, liabilities, losses, damages, costs and expenses arising from or as the result of the death of, or any accident, injury, loss or damage to, any person or property that occurs within the Easements. Notwithstanding the foregoing, the City will not be entitled to such indemnification for any damage to the extent caused by its own negligence or by its willful misconduct.

Section 11. Remedies. If there is a material breach of any provision of this Agreement, a non-breaching Party may serve written notice of the breach on the breaching Party. If the breach is not cured within thirty (30) days following receipt of the notice of breach (or such longer period as is reasonably necessary to remedy such breach, provided that the breaching Party shall continuously and diligently pursue such remedy at all times until such breach is cured), the non-breaching Party may take any and all action as permitted by law.

Section 12. No Public Dedication. Nothing herein shall be deemed to be a gift or dedication of any portion of the Easements to the general public or for any public purposes whatsoever. It is the intention of the Parties that this Agreement be strictly limited to and for the purposes herein expressed. The right of the public or any person to make any use whatsoever of the Access Easement or any portion thereof is by permission and subject to the mutual agreement of the Parties. Notwithstanding anything to the contrary herein, the Parties may, by mutual agreement, periodically restrict ingress and egress to and from any or all of the Access Easement in order to prevent any type of prescriptive easement from arising by reason of continued public use.

Section 13. Notices. Formal notices, demands and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, return receipt requested, or express delivery service with a delivery receipt, to the principal offices of the Party as follows:

City: City of Palm Desert
73-510 Fred Waring Drive
Palm Desert, CA 92260
Attn: Housing Division

Partnership: PD Millenium Partners LP
100 Pacifica, Suite 203
Irvine, CA 92618

Notices shall be deemed received as of the date delivered or delivery was refused as shown on the return receipt. The foregoing addressed may be change by notice given as provided in this Agreement. Each Party shall promptly notify each of the other Party of any change in its address as last disclosed.

Section 14. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute this Agreement.

Section 15. Legal Actions. If any legal action is brought to interpret or enforce the terms of this Agreement, the prevailing Party shall be entitled to recover against the Party not prevailing, all reasonable costs, including attorneys' fees, incurred in the action.

Section 16. Entire Agreement. This Agreement contains the entire agreement between the Owners relating to the rights granted and the obligations hereunder assumed. Any oral representations or modification concerning this Agreement shall be of no force and effect excepting a subsequent modification in writing signed by the Parties.

Section 17. Exhibits. Any and all Exhibits referred to in this Agreement are incorporated in this Agreement by this reference.

Section 19. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their permitted successors and assigns.

Section 20. Amendments. This Agreement may be amended or modified only by a written instrument executed by the Parties.

Section 21. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

WHEREFORE the Parties have executed this Agreement as of the date first written above.

CITY:

CITY OF PALM DESERT
a municipal corporation

By: _____
Jan C. Harnik, Mayor

ATTEST:

By: _____
Anthony Mejia, City Clerk

PARTNERSHIP:

PD MILLENNIUM PARTNERS LP,
a California limited partnership

By: PC Gerald Ford Developers LLC,
a California limited liability company,
Its administrative general partner

By: Palm Companies LLC,
a California limited liability
company, Its managing member

By: Danavon L. Horn, President

EXHIBIT A
Legal Description of Phase I Parcel

EXHIBIT A-1

DEPICTION OF PHASE I PARCEL (Highlighted in Yellow)
Metes and Bounds Legal Description to be provided at Recordation

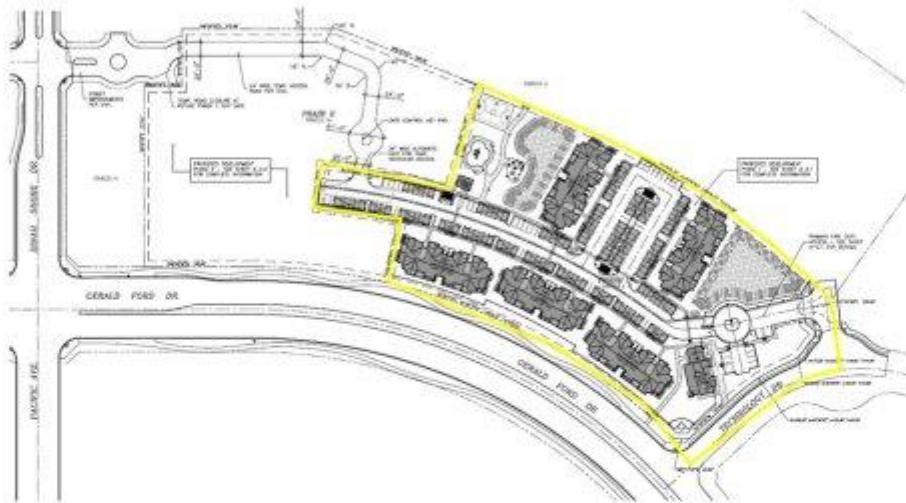


EXHIBIT B
Legal Description of Parcel 9

EXHIBIT A-3

DEPICTION OF PARCEL 9 (Highlighted in Yellow)
Metes and Bounds Legal Description to be provided at Recordation

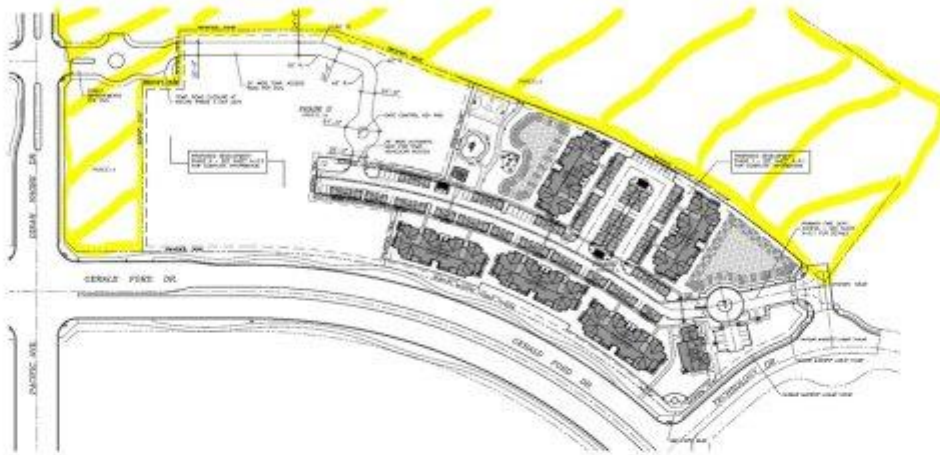


EXHIBIT C
Description of Access Easement

